

## § 431.998

## 42 CFR Ch. IV (10–1–10 Edition)

### § 431.998 Difference resolution and appeal process.

(a) The State may file, in writing, a request with the Federal contractor to resolve differences in the Federal contractor's findings based on medical or data processing reviews on FFS and managed care claims in Medicaid or CHIP within 20 business days after the disposition report of claims review findings is posted on the contractor's Web site. The State must complete all of the following:

(1) Have a factual basis for filing the difference.

(2) Provide the Federal contractor with valid evidence directly related to the error finding to support the State's position that the claim was properly paid.

(b) For a claim in which the State and the Federal contractor cannot resolve the difference in findings, the State may appeal to CMS for final resolution, filing the appeal within 10 business days from the date the contractor's finding as a result of the difference resolution is posted on the contractor's Web site. There is no minimum dollar threshold required to appeal a difference in findings.

(c) For eligibility error determinations made by the agency with personnel functionally and physically separate from the State Medicaid and CHIP agencies with personnel that are responsible for Medicaid and CHIP policy and operations, the State may appeal error determinations by filing an appeal request.

(1) *Filing an appeal request.* The State may—

(i) File its appeal request with the appropriate State agency or entity; or

(ii) If no appeals process is in place at the State level, differences in findings—

(A) Must be documented in writing and submitted directly to the agency responsible for the PERM eligibility review for its consideration;

(B) May be resolved through document exchange facilitated by CMS, whereby CMS will act as intermediary by receiving the written documentation supporting the State's appeal from the State agency and submitting that documentation to the agency respon-

sible for the PERM eligibility review; or

(C) Any unresolved differences may be addressed by CMS between the final month of payment data submission and error rate calculation.

(2) *After the filing of an appeals request.* (i) Any changes in error findings must be reported to CMS by the deadline for submitting final eligibility review findings.

(ii) Any appeals of determinations based on interpretations of Federal policy may be referred to CMS.

(iii) CMS's eligibility error resolution decision is final.

(iv) If CMS's or the State-level appeal board's decision causes an erroneous payment finding to be made, if the final adjudicated claim is actually a payment error in accordance with documented State policies and procedures, any resulting recoveries are governed by § 431.1002 of this subchapter.

(d) All differences, including those pending in CMS for final decision that are not resolved in time to be included in the error rate calculation, will be considered as errors for meeting the reporting requirements of the IPIA. Upon State request, CMS will calculate a subsequent State-specific error rate that reflects any reversed disposition of the unresolved claims.

[71 FR 51081, Aug. 28, 2006, as amended at 75 FR 48851, Aug. 11, 2010]

### § 431.1002 Recoveries.

(a) *Medicaid.* States must return to CMS the Federal share of overpayments based on medical and processing errors in accordance with section 1903(d)(2) of the Act and related regulations at part 433, subpart F of this chapter. Payments based on erroneous Medicaid eligibility determinations are addressed under section 1903(u) of the Act and related regulations at part 431, subpart P of this chapter.

(b) *CHIP.* Quarterly Federal payments to the States under Title XXI of the Act must be reduced in accordance with section 2105(e) of the Act and related regulations at part 457, subpart B of this chapter.

## PART 432—STATE PERSONNEL ADMINISTRATION

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AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

SOURCE: 43 FR 45199, Sept. 29, 1978, unless otherwise noted.

### Subpart A—General Provisions

#### § 432.1 Basis and purpose.

This part prescribes regulations to implement section 1902(a)(4) of the Act, which relates to a merit system of State personnel administration and training and use of subprofessional staff and volunteers in State Medicaid programs, and section 1903(a), rates of FFP for Medicaid staffing and training costs. It also prescribes regulations, based on the general administrative authority in section 1902(a)(4), for State training programs for all staff.

#### § 432.2 Definitions.

As used in this part—

*Community service aides* means subprofessional staff, employed in a variety of positions, whose duties are an integral part of the agency's responsibility for planning, administration, and for delivery of health services.

*Directly supporting staff* means secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that directly support the responsibilities of skilled

professional medical personnel, who are directly supervised by the skilled professional medical personnel, and who are in an employer-employee relationship with the Medicaid agency.

*Fringe benefits* means the employer's share of premiums for workmen's compensation, employees' retirement, unemployment compensation, health insurance, and similar expenses.

*Full-time training* means training that requires employees to be relieved of all responsibility for performance of current agency work to participate in a training program.

*Part-time training* means training that allows employees to continue full-time in their agency jobs or requires only partial reduction of work activities to participate in the training activity.

*Skilled professional medical personnel* means physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

*Staff of other public agencies* means skilled professional medical personnel and directly supporting staff who are employed in State or local agencies other than the Medicaid agency who perform duties that directly relate to the administration of the Medicaid program.

*Subprofessional staff* means persons performing tasks that demand little or no formal education; a high school diploma; or less than 4 years of college.

*Supporting staff* means secretarial, stenographic, clerical, and other subprofessional staff whose activities are directly necessary to the carrying out of the functions which are the responsibility of skilled professional medical personnel, as defined in this section.

*Training program* means a program of educational activities based on the agency's training needs and aimed at insuring that agency staff acquire the knowledge and skills necessary to perform their jobs.